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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/626,051

07/24/2003

Carl U.J. Rosetti

61575.1031

1448

7590

03/07/2008

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EXAMINER

CHEVALIER, ROBERT

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

03/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/626,051	<b>Applicant(s)</b> ROSETTI ET AL.	
	<b>Examiner</b> ROBERT CHEVALIER	<b>Art Unit</b> 2621	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al.

Ellis et al discloses a video recording/reproducing system that shows all the limitations recited in claims 1, and 28, including the feature of the feature of providing programming content through a communications network (See Ellis et al's Figure 2d), the feature of receiving from a terminal through the communications network a request for recording selected programming content (See Ellis et al's paragraph [0076]), the feature of the server responsive to the request for copying the selected programming content during broadcast of the selected programming content through the communications network, a copy of the selected programming content being stored for providing the selected programming content through the communications network after broadcast thereof as specified in the present claims 1, and 28. (See Ellis et al's paragraph [0076], and Figure 2d, component 24).

With regard to claims 2-4, 19-21, 25-27, 29-31, 46-48, and 52-54, the feature of the communications network including a two-way multichannel delivery network, or a cable TV network wherein the delivery network includes a hybrid fiber coaxial cable network as specified thereof is present in the cited reference of Ellis et al. (See Ellis et al's paragraph [0065]).

With regard to claims 5, and 32, the feature of the copy of the selected programming content being stored in a storage space associated with the terminal as specified thereof is present in Ellis et al. (See Ellis et al's paragraph [0081], lines 13-15, and Figure 4).

With regard to claims 6, 15, 33, and 42, the feature of selecting programming content using a program guide as specified thereof is present in Ellis et al. (See Ellis et al's Figure 26, component 2620).

With regard to claims 7-8, 16-17, 34-35, and 43-44, the feature of selecting programming content based on preferences of a user at the terminal as specified thereof is present in Ellis et al. (See Ellis et al's Figure 26).

With regard to claims 9, and 36, the feature of wherein data identifying the selected programming content which has been copied is provided to the terminal to facilitate access to the copy of the selected programming content as specified thereof is present in Ellis et al. (See Ellis et al's Figure 28).

With regard to claims 10, 18, 37, and 45, the feature of the selected programming content being provided after broadcast thereof in a presentation manipulatable to perform at least one of rewinding, pausing and fast-forwarding on the

presentation as specified thereof is present in Ellis et al. (See Ellis et al's Figures 28-29).

With regard to claims 11, 22-23, 38, and 49-50, the feature of the storage having a plurality of storage spaces, which are associated with the plurality of terminals respectively as specified thereof is present in Ellis et al. (See Ellis et al's paragraph [0081], lines 13-15, and Figure 4).

With regard to claims 12, and 39, the feature of the copy of the selecting programming content being made when the selected programming content is broadcast as specified thereof is present in Ellis et al. (See Ellis et al's paragraph [0076]).

With regard to claims 13, and 40, the feature of the time at which the selecting programming content is broadcasted is determined according to a broadcast schedule as specified thereof is present in Ellis et al. (See Ellis et al's Figure 26, component 2620).

With regard to claims 14, 24, 41, and 51, the feature of the storage space associated with the certain terminal being identifiable within the storage based on an identifier of certain terminal as specified thereof is present in Ellis et al. (See Ellis et al's paragraph [0081], lines 13-15, and Figure 4).

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kobayashi et al discloses a content retrieval device from a server.

Kumazawa et al discloses a data terminal equipment retrieving index data indicating content data.

Yoshinari et al discloses a system of retrieving content from a server

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT CHEVALIER whose telephone number is (571)272-7374. The examiner can normally be reached on MM-F (9:00-6:30), second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ROBERT CHEVALIER/  
Primary Examiner, Art Unit 2621  
February 27, 2008.

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